

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(E-Filed: August 18, 2009)

No. 04-741V

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|---------------------------------------|---|----------------------------|
| CHRISTOPHER and CASSANDRA GORTON, |) | |
| as parents of KELSEY GORTON, a minor, |) | |
| |) | UNPUBLISHED |
| |) | |
| Petitioners, |) | Attorneys' Fees and Costs; |
| |) | Autism Case |
| v. |) | |
| |) | |
| SECRETARY OF THE DEPARTMENT |) | |
| OF HEALTH AND HUMAN SERVICES, |) | |
| |) | |
| Respondent. |) | |

DECISION¹

On April 27, 2004, petitioners, Christopher and Cassandra Gorton, filed a petition on behalf of their minor child Kelsey, seeking compensation under the National Vaccine Injury Compensation Program (the Vaccine Program).² Petitioners filed a "Short-Form Autism Petition for Vaccine Compensation" alleging that Kelsey Gorton developed autism spectrum disorder as a result of MMR vaccination and receipt of vaccines containing thimerosal. See generally Autism General Order # 1, 2002 WL 31696785, at

¹ Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless an issued decision contains trade secrets or commercial or financial information that is privileged or confidential, or the decision contains medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. When a special master files a decision or substantive order with the Clerk of the Court, each party has 14 days within which to identify and move for the redaction of privileged or confidential information before the document's public disclosure.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

*4 (Fed. Cl. Spec. Mstr. July 3, 2002) (order permitting the filing of a “Short-Form Autism Petition for Vaccine Compensation”).

On October 27, 2008, petitioners’ counsel filed medical records in support of petitioners’ case.

On May 20, 2009, petitioner filed an Application for Attorneys’ Fees and Costs (Fee App.) requesting a total of \$56,263.00 in attorneys’ fees (\$4030.50 in attorneys’ fees to this individual case, \$52,232.50 to the autism general file until 10/20/2008), and \$862.08 in attorneys’ costs (\$226.22 in costs to this individual case file, \$635.86 in costs to the general autism file).

On June 2, 2009, a status conference was held by the undersigned to address petitioners’ fees and costs application.

On August 17, 2009, petitioners’ counsel filed a Written Status Report of August 17, 2009 (Report), which contained an amended application for attorneys’ fees and costs and requested a final award of \$3,530.50 in attorneys’ fees and costs. Petitioners’ counsel avers in the status report that respondent agrees not to object to petitioners’ counsel’s request for \$3,530.50 in fees and costs specific to the Gorton case. (See Report ¶ 4). Petitioners’ counsel also states that the General Autism Fees and Costs requested in this matter will be filed in another case. (See Report ¶ 5).

The Vaccine Act permits an award of reasonable attorneys’ fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of petitioners’ counsel’s request and respondent’s election not to object to the request, the undersigned **GRANTS** the attorneys’ fees and costs as outlined in the Written Status Report filed on August 17, 2009.

The undersigned awards petitioner \$3,530.50 in fees and costs.

Therefore, in the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in petitioners’ favor in the amount of \$3,530.50 in attorneys’ fees and attorneys’ costs.³ The judgment shall reflect that a check shall be made payable jointly to the Maglio Christopher Toale & Pitts law firm and to petitioner.

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties’ joint filing of notice renouncing the right to seek review.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Special Master